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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,269	04/16/2008	Karl-Heinz Minuth	095309.58085US	7151

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EXAMINER

GARRETT, ERIKA P

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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08/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,269	Applicant(s) MINUTH ET AL.	
	Examiner ERIKA GARRETT	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/4/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9-13, 15-19, 21-23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Faust (6,196,627). Faust disclose a vehicle seat, comprising a backrest (12) having a backrest cushion (13) with a ventilation layer (23) through which air can flood, and at least one first ventilator (29) for ventilating the cushion by sucking up air from the rear side of the backrest cushion and blowing it into the ventilation layer, wherein the ventilation layer is divided into a lower section(lower portion of the backrest) and an upper section (upper portion of the backrest) by an air barrier (31; extends in at least a portion of the transverse direction of the seat) running in a transverse direction of the seat, the at least one first ventilator (29 in the lower portion of the backrest) being assigned to the lower section and at least one second ventilator (29 upper portion of the backrest) is assigned to the upper section and operating in an air-conveying direction opposite to an air-conveying direction of the at least one first ventilator.

3. In regards to claim 10, wherein backrest cushion (13) has a cushion pad in which at least one upper air duct (30) is provided in the region of the upper section and at least one lower air duct (30) is provided in the region of the lower section of the ventilation layer (23), air ducts being configured to completely penetrate the cushion

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pad from a rear side of the backrest cushion as far as the ventilation layer, and the at least one first and second ventilators (29) being respectively assigned to the air ducts, see figure 1.

4. In regards to claims 11, 13, 15, 18, and 23, wherein the at least one first and second ventilators (29) are operatively arranged in the air ducts (30).

5. In regards to claims 12, 16, 19, and 24, wherein the cushion pad is operatively fixed on a cushion support (15, see column 3 lines 13-16).

6. In regards to claim 21, wherein the pressure-distributing layer (24) is a perforated foam material, see column 3 lines 25-30.

7. In regards to claim 22, wherein the ventilation layer (23) is a pressure-resistant knitted spacer fabric, column 3 lines 20-25.

8. In regards to claims 17 and 26, wherein the backrest cushion (13) includes a pressure-distributing layer (24) covering the ventilation layer and an air-permeable cushion cover (27) spanning the pressure-distributing layer.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 14, 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faust in view of Buss (6,808,230). Faust further comprised a cushion pad composed of a rubberized hair layer (2), but fails to show an air-blocking layer.

11. Buss teaches the use of an air blocking layer (column 3 lines 55-60).

12. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the ventilation seat with an air blocking layer as taught by Buss, in order to improve the quality of the seat in regards to sitting comfortably.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to ventilation seat: U.S Pat. No. 5902014, 6189966.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIKA GARRETT whose telephone number is (571)272-6859. The examiner can normally be reached on Monday-Thursday 9:30 a.m.-6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. G./

Examiner, Art Unit 3636

August 20, 2009

/DAVID DUNN/

Supervisory Patent Examiner, Art Unit 3636